IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Crl.Rev.Pet.No. 2991 of 2007()

CRA.366/2006 of III ADDL. SESSIONS COURT (ADHOC)
FAST TRACK COURT NO. I, THRISSUR
CC.430/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
KUNNAMKULAM

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REVN. PETITIONER: APPELLANTS/ACCUSED:

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1. RAMADAS @ PREMAN, AGED 34 YEARS,
S/O. VELAYUDHAN, KAKKASSERY HOUSE, PONNORE DESOM,
EDAKALATHUR VILLAGE, THRISSUR DISTRICT.

2. RAJISH @ KANNAN, AGED 24 YEARS,
S/O.VELAYUDHAN, KOTTILINGAL HOUSE, PONNORE DESOM,
EDAKALATHUR VILLAGE, THRISSUR DISTRICT.

3. MANOJ, AGED 29 YEARS,
S/O.MADHAVAN, RESIDING AT PONNORE COLONY,
PONNORE DESOM, EDAKALATHUR VILLAGE, THRISSUR DIST.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA

RESPONDENTS: RESPONDENT/COMPLAINANT:

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. 2991 of 2007NO.

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Dated, this the 10th day of August 2007

ORDER

The revision petitioners who were the accused in C.C. 430 of 2003 on the file of the J.F.C.M., Kunnamkulam for offences punishable under Sections 341 and 323 read with Sec. 34 I.P.C. challenges the conviction entered and the sentence passed concurrently against them.

2. The case of the prosecution can be summarised as follows:-

On 2-3-2003 at about 2.30 a.m. accused Nos. 1 to 3 out of their previous enmity towards P.W.1 and in furtherance of their common intention and preparation, voluntarily caused hurt to P.W.1.

3. On the side of the prosecution, 8 witnesses were examined as P.Ws 1 to 8 and four documents were marked as Exts.P1 to P4.

4. The accused were questioned under Sec. 313 (1)(b) Cr.P.C. with regard to the incriminating circumstances appearing against them. They denied those circumstances and maintained their innocence. They did not adduce any defence evidence except marking Exts. D1 and D2.

5. The learned Magistrate, after trial convicted and sentenced them to undergo simple imprisonment for six months each under Sec. 341 I.P.C. and under Sec. 232 I.P.C. with a direction that the sentences shall run concurrently.

6. On appeal preferred by the revision petitioners the lower appellate court acquitted them of the offence punishable under Sec. 341 but confirmed the conviction and sentence passed under Sec. 323 I.P.C.

7. Eventhough the learned counsel appearing for the revision petitioners assailed the conviction recorded by the courts below, the said conviction was entered after a careful evaluation of the oral and documentary evidence in the case and this Court sitting in the rarefied revisional jurisdiction will be loathe to interfere with the said conviction especially when this Court does not find any infirmity in the appreciation of evidence by the courts below. Hence the conviction of the revision petitioner under Sec. 323 I.P.C. is confirmed.

8. What now survives for consideration is the question of adequacy or otherwise of the sentence imposed on the revision petitioner. Having regard to the facts and circumstances of the case and the relatively minor injuries sustained by P.W.1 and the further fact that the courts below were not alive to the need to compensate the victim of crime under Sec. 357 Cr.P.C., I am of the view that the revision petitioners do not derserve penal servitude by way of incarceration and that interests of justice will be adequately met by directing them to pay an appropriate fine and a suitable sum by way of compensation to P.W.1, the injured. Accordingly, the sentence imposed on the revision petitioner is set aside and instead they are sentenced to fine of **Rs. 5,000/- (Rupees five thousand only)** each for the conviction under Section 323 I.P.C. The fine amount shall be paid within one month

from today. From our of the fine amount a sum of **Rs. 5,000/- (Rupees five thousand only)** shall be paid as compensation to P.W1, the injured, under Section 357 (1) Cr.P.C.

In the result, this revision is disposed of confirming the conviction and modifying the sentence as above.

V. RAMKUMAR,
(JUDGE)

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